

Filed for intro on 02/01/2001

SENATE BILL 500

By Haun

AN ACT to amend Tennessee Code Annotated, Title 55 and Title 56, relative to creating the "Mandatory Automobile Insurance Responsibility Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) No person shall operate, register or maintain registration of, and no owner shall permit another person to operate, register or maintain registration of, a motor vehicle designed to be used on a public highway unless the motor vehicle is covered by a liability insurance policy. The insurance policy shall be issued in amounts no less than the minimum amounts set for bodily injury or death and for destruction of property under Section 55-12-102, and shall be issued in accordance with the requirements of the Tennessee Insurance Code, as amended. No insurer other than an insurer authorized to do business in this State shall issue a policy pursuant to this section for any vehicle subject to registration under this Code. Nothing herein shall deprive an insurer of any policy defense available at common law.

(b) The following vehicles are exempt from the requirements of this section:

(1) vehicles owned by the United States, the State of Tennessee, or any political subdivision, municipality or local mass transit district;

(2) implements of husbandry;

(3) other vehicles complying with laws which require them to be insured in amounts meeting or exceeding the minimum amounts required under this section; and

(4) inoperable or stored vehicles that are not operated as defined by rules and regulations of the department of safety.

## SECTION 2. Insurance card.

(a) Every operator of a motor vehicle subject to Section 1 shall carry within the vehicle evidence of insurance. The evidence shall be legible and sufficient to demonstrate that the motor vehicle currently is covered by a liability insurance policy and may include, but is not limited to, the following:

(1) an insurance card provided by the insurer under this section;

(2) the combination of proof of purchase of the motor vehicle within the previous sixty (60) days and a current insurance card issued for the motor vehicle replaced by such purchase;

(3) the current declarations page of a liability insurance policy;

(4) a liability insurance binder, certificate of liability insurance or receipt for payment to an insurer or its authorized representative for a liability insurance premium, provided such document contains all information the department of safety by rule and regulation may require;

(5) a current rental agreement;

(6) registration plates, registration sticker or other evidence of registration issued by the commissioner only upon submission of proof of liability insurance;

or

(7) a certificate, decal, or other document or device issued by a governmental agency for a motor vehicle indicating the vehicle is insured for liability pursuant to law.

(b) An insurance card shall be provided for each motor vehicle insured by the insurer issuing the liability insurance policy. The insurance card shall display an effective date and an expiration date covering a period of time not to exceed twelve (12) months. The insurance card shall contain the following disclaimer: "Examine policy exclusions carefully. This form does not constitute any part of your insurance policy." If the insurance policy represented by the insurance card does not cover any driver operating the motor vehicle with the owner's permission, or the owner when operating a motor vehicle other than the vehicle for which the policy is issued, the insurance card shall contain a warning of such limitations in the coverage provided by the policy. No insurer shall issue a card, similar in appearance, form and content to the insurance card required under this section, in connection with an insurance policy that does not provide the liability insurance coverage required under Section 1. The evidence of insurance shall be displayed upon request made by any law enforcement officer wearing a uniform or displaying a badge or other sign of authority. Any person who fails or refuses to comply with such request is in violation of this Act. Any person who displays evidence of insurance, knowing there is no valid liability insurance in effect on the motor vehicle as required or knowing the evidence of insurance is illegally altered, counterfeit or otherwise invalid, is in violation of this Act. "Display" means the manual surrender of the evidence of insurance into the hands of the law enforcement officer, court, or officer of the court making the request for the officer's, court's, or officer of the court's inspection thereof.

SECTION 3. Illegal insurance cards - penalty. No person shall alter an invalid insurance card to make it appear valid. No person shall knowingly make, sell or otherwise make available an invalid or counterfeit insurance card. Violation of this Section is a Class E felony.

SECTION 4. Verification of liability insurance policy.

(a) The department of safety may select random samples of registrations of motor vehicles subject to Section 1, or owners thereof, for the purpose of verifying whether or not the motor vehicles are insured.

In addition to such general random samples of motor vehicle registrations, the department of safety may select for verification other random samples, including, but not limited to registrations of motor vehicles owned by persons:

(1) whose motor vehicle registrations during the preceding four (4) years have been suspended.

(2) who during the preceding four (4) years have been convicted of violating Section 9, 10, or 12 while operating vehicles owned by other persons;

(3) whose driving privileges have been suspended during the preceding four (4) years;

(4) who during the preceding four (4) years acquired ownership of motor vehicles while the registrations of such vehicles under the previous owners were suspended pursuant to Section 7 or 8; or

(5) who during the preceding four (4) years have received a disposition of supervision for a violation of Section 9, 10, or 12.

(b) Upon receiving certification of the name of an owner or operator of any motor vehicle involved in an accident, the commissioner may verify whether or not at the time of the accident such motor vehicle was covered by a liability insurance policy in accordance with Section 1.

(c) In preparation for selection of random sample and their verification, the department of safety may send to owners of randomly selected motor vehicles, or to randomly selected motor vehicle owners, requests for information about their motor vehicles and liability insurance coverage. The request shall require the owner to state whether or not the motor vehicle was insured on the verification date stated in the department's request and the request may require, but is not limited to, a statement by the owner of the names and addresses of insurers, policy numbers, and expiration dates of insurance coverage.

(d)

(1) Within thirty (30) days after the department of safety mails a request, the owner to whom it is sent shall furnish the requested information to the department above the owner's signed affirmation that such information is true and correct. Proof of insurance in effect on the verification date, as prescribed by the department, may be considered by the department of safety to be a satisfactory response to the request for information.

(2) Any owner whose response indicates that such owner's vehicle was not covered by a liability insurance policy in accordance with Section 1 shall be deemed to have registered or maintained registration of a motor vehicle in violation of Section 1. Any owner who fails to respond to such a request shall be deemed to have registered or maintained registration of a motor vehicle in violation of Section 1.

(e) If the owner responds to the request for information by asserting that such owner's vehicle was covered by a liability insurance policy on the verification date stated in the department of safety request, the department may conduct a verification of the response by furnishing necessary information to the insurer named in the response. The insurer shall within thirty (30) days inform the department of safety whether or not on the

verification date stated the motor vehicle was insured by the insurer in accordance with Section 1. The department of safety shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to prescribe the procedures for verification.

(f) No random sample selected under this section shall be categorized on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, economic status or geography.

SECTION 5. Uninsured motor vehicles - notice. If the department of safety determines that an owner has registered or maintained the registration of a motor vehicle without a liability insurance policy in accordance with Section 1, the department shall notify the owner that such owner's vehicle registration shall be suspended forty-five (45) days after the date of the mailing of the notice unless the owner within thirty (30) days furnishes proof of insurance in effect on the verification date, as prescribed by the commissioner of safety.

SECTION 6. Uninsured motor vehicles - suspension and reinstatement.

(a) The department of safety shall suspend the vehicle registration of any motor vehicle determined by the department to be in violation of Section 1, including any motor vehicle operated in violation of Section 9, 10, or 12 by an operator other than the owner of the vehicle. Neither the fact that, subsequent to the date of verification or conviction, the owner acquired the required liability insurance policy nor the fact that the owner terminated ownership of the motor vehicle shall have any bearing upon the department's decision to suspend.

(b) The department of safety is authorized to suspend the registration of any motor vehicle registered in this state upon receiving notice of the conviction of the operator of the motor vehicle in another state of an offense which, if committed in this state, would constitute a violation of Section 1.

(c) Until it is terminated, the suspension shall remain in force after the registration is renewed or a new registration is acquired for the motor vehicle. The suspension also shall apply

to any motor vehicle to which the owner transfers the registration. In the case of a first violation, the department of safety shall terminate the suspension upon payment by the owner of a reinstatement fee of one hundred dollars (\$100) and submission of proof of insurance as prescribed by the department. In the case of a second or subsequent violation by a person having ownership interest in a motor vehicle or vehicles within the preceding four (4) years, or a violation of Section 9, the department of safety shall terminate the suspension four (4) months after its effective date upon payment by the owner of a reinstatement fee of one hundred dollars (\$100) and submission of proof of insurance as prescribed by the department.

(d) All fees collected under this section shall be deposited into the Road Fund of the state treasury.

SECTION 7. Submission of false proof - penalty. If the department of safety determines that the proof of insurance submitted by a motor vehicle owner under Section 4, 5, or 6 is false, the department shall suspend the owner's vehicle registration. The department of safety shall terminate the suspension six (6) months after its effective date upon payment by the owner of a reinstatement fee of two hundred dollars (\$200) and submission of proof of insurance as prescribed by the department. All fees collected under this section shall be deposited into the Road Fund of the state treasury.

SECTION 8. Verification-limitation. No verification procedure established under this Act shall include individual inspections of vehicles on a highway solely for the purpose of verifying the existence of an insurance policy. No law enforcement officer shall stop a vehicle solely for the purpose of verifying the existence of a valid insurance policy.

SECTION 9. Operation of uninsured motor vehicle - penalty.

(a) No person shall operate a motor vehicle unless the motor vehicle is covered by a liability insurance policy in accordance with Section 1.

(b) Any person who fails to comply with a request by a law enforcement officer for display of evidence of insurance, as required under Section 2, shall be deemed to be operating an uninsured motor vehicle.

(c) Any operator of a motor vehicle subject to registration under this Act who is convicted of violating this section is guilty of a criminal offense and shall be required to pay a fine in excess of five hundred dollars (\$500), but not more than one thousand dollars (\$1,000). However, no person charged with violating this section shall be convicted if such person produces in court satisfactory evidence that at the time of the arrest the motor vehicle was covered by a liability insurance policy in accordance with Section 1. The chief judge of each circuit may designate an officer of the court to review the documentation demonstrating that at the time of arrest the motor vehicle was covered by a liability insurance policy in accordance with Section 1.

SECTION 10. Operation of motor vehicle when registration suspended for noninsurance.

(a) No person shall operate a vehicle the registration of which is suspended pursuant to Section 5 or 6.

(b) Any person convicted of violating this section is guilty of a criminal offense and shall be required to pay a fine of not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000). Any person convicted of a second or subsequent violation of this section is guilty of a Class B misdemeanor and shall be required to pay a fine of not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000).

SECTION 11.

(a) Except as provided in subsection (d), in any legal action to recover damages arising out of the operation or use of a motor vehicle, a person may not recover noneconomic losses, including but not limited to pain and suffering, if any one of the following applies:

(1) The injured person was at the time of the accident operating the vehicle in violation of Tennessee Code Annotated, Section 55-10-401, 55-10-406, 55-10-415 or 55-50-408, and was convicted of that offense;

(2) The injured person was the owner of an uninsured vehicle involved in the accident and is unable to produce proof of liability insurance as required in Section 1;

(3) The injured person was the operator of the vehicle involved in the accident and was operating the vehicle in violation of 55-50-504, and was convicted of that offense; or

(4) The injured person was the operator of a vehicle, a passenger in a vehicle, or a pedestrian and such person's injuries were in any way proximately caused by such person's commission of any felony, or immediate flight therefrom, and the injured person had been duly convicted of that felony.

(b) Except as provided in subsection (d), an insurer shall not be liable directly or indirectly, under a policy of liability or uninsured motorist insurance to indemnify for the noneconomic losses of any person injured as described in subsection (a).

(c) In the event a person described in paragraph (2) or (3) of subsection (a) was injured by a motorist who at the time of the accident was operating a vehicle in violation of Tennessee Code Annotated, Section 55-10-401, 55-10-406, 55-10-415, or 55-50-408, and was convicted of that offense, the injured person shall not be precluded from recovering noneconomic losses, including but not limited to pain and suffering.

(d) Notwithstanding Tennessee Code Annotated, Section 56-8-104(8), or any other provision of law to the contrary, in the event a person injured in a motor vehicle accident has been charged with the violation of a criminal felony statute of Tennessee Code Annotated, Section 55-10-401, 55-10-406, 55-10-414, 55-50-408, or 55-50-504, in connection with such accident, but a final determination of guilt or innocence has not

been made, liability and uninsured motorist insurers, to whom a claim for damages had been presented, shall advise the injured party that settlement of the claim will pend until a final judgment of guilt or innocence is rendered on the violation charges. The injured party claiming damages shall provide evidence of the outcome of any criminal charges.

(e) The section shall apply to all motor vehicle accidents occurring on or after the effective date of this act.

(f) For purposes of this section a conviction shall include a plea of nolo contendere.

#### SECTION 12. Display of false insurance card.

(a) No person shall display evidence of insurance to a law enforcement officer, court, or officer of the court, knowing there is no valid liability insurance in effect on the motor vehicle as required under Section 1 or knowing the evidence of insurance is illegally altered, counterfeit, or otherwise invalid as evidence of insurance required under Section 2. If the law enforcement officer issues a citation to a motor vehicle operator for displaying invalid evidence of insurance, the officer shall confiscate the evidence for presentation in court.

(b) Any person convicted of violating this section is guilty of a Class A misdemeanor.

SECTION 13. This act shall take effect October 1, 2001, for rulemaking purposes and for all other purposes it shall take effect January 1, 2002, the public welfare requiring it.